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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Xin Lu

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1608

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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606-6357

EXAMINER

DAVIS, MINH TAM B

ART UNIT

PAPER NUMBER

1642

MAIL DATE

DELIVERY MODE

03/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,316	Applicant(s) LU ET AL.	
	Examiner MINH-TAM DAVIS	Art Unit 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5,18 and 35-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5,18,35-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant cancels claims 29, 32-33 and adds new claims 35-42.

Accordingly, claims 1, 5, 18, 35-42 are examined in the instant application.

Withdrawn Rejection

The following rejections have been withdrawn in view of the amendment: 1) Objection and 2) 112, second paragraph.

Claim Rejections - 35 USC § 112, First Paragraph, Enablement

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 5, 18, 35-42 are rejected under 112, first paragraph for lack of enablement for the polypeptide of SEQ ID NO:1 or a variant thereof, for reasons already of record in paper of 08/29/08.

Applicant submits a post filing reference by the inventor and colleagues, Slee et al, 2004.

The response asserts that Slee et al teach that the claimed polypeptide binds to p53 and inhibits apoptosis induced by p53 overexpression.

The submission of Slee et al is acknowledged.

The response has been considered but is not found to be persuasive for the following reasons:

It is not clear whether the iASPP polypeptide taught by Slee et al is the same as the claimed SEQ ID NO:1.

Further, claim 35 encompasses a **variant** of SEQ ID NO:1, wherein the variant could be **ubiquitinated** on any numbers of amino acids at any position throughout the full length of SEQ ID NO:1. Claims 37-38 encompass a **variant** of SEQ ID NO:1, wherein the variant could be **acetylated** on any numbers of amino acids at any position throughout the full length or the amino-terminus of SEQ ID NO:1. Claims 39-40 encompass a variant of SEQ ID NO:1, wherein the variant could be **amidated** on any numbers of amino acids at any position throughout the full length or the carboxy-terminus of SEQ ID NO:1. Claim 41 encompasses a variant of SEQ ID NO:1, wherein said variant is **cyclic**.

One cannot predict that the claimed variants would have the three-dimensional structure and function of SEQ ID NO:1, because protein chemistry is highly unpredictable, and even a single amino acid substitution will often dramatically affect the biological and characteristics of a protein, in view of the teaching of Bowie et al, Burgess et al and Lazar et al, all of record. The specification however does not have any data or objective evidence that the ubiquitination, acetylation, amidation or cyclization of SEQ ID NO:1 would not affect the three dimensional structure and function of SEQ ID NO:1.

Conclusion

No claims are allowed.

Art Unit: 1642

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 571-272-0830. The examiner can normally be reached on 9:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LARRY HELMS can be reached on 571-272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MINH TAM DAVIS

March 7, 2009

/Larry R. Helms/

Supervisory Patent Examiner, Art Unit 1643